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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,721	01/27/2004	Michael J. Litchman	2316-6296US	2564

24247 7590 09/15/2006

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 09/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,721

Applicant(s)

LITCHMAN, MICHAEL J.

Examiner

Robin A. Hylton

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) 12,15-23,38-42,49 and 58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11,14,24-37,43-48,50-57 and 59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 7/13/05
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings were received on June 28, 2004. These drawings are approved with the examiner's notation of "Replacement Sheet" added to the top margin pursuant to 37 CFR 1.121(d).

Election/Restrictions

2. Claims 12,15-23,38-42,49, and 58 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 10, 2005.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-3,5-10,13,15,24,25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Von Holdt (US 5,979,691).

Closure element **12** has an attachment member **23** for a movable structure **24** and an engagement feature **26**, the engagement feature engaging a wall **30** of the tubular member **10**.

5. Claims 28, 32,35,36, and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Lyons (US 5,829,591).

Closure element **12** has an attachment member **42** for securing a movable structure **24** to the closure element and an engagement feature **26** on the movable member for engaging a wall of a tubular member.

6. Claims 1-11,13,14, and 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Mooney et al. (US 3,991,446).

The closure element has a base 14, a movable structure 19 with an engagement feature (shoulder) 22 and an attachment member (13 and radial arm 16).

Claim Rejections - 35 USC § 103

7. Claims 1-11,13,14,24-37,43-48,50-57, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deekes (US 5,730,352) in view of Spooner (US 1,351,496).

Deekes teaches a tubular member having opposed open ends and a removable closure at each end. The closure of Deekes has a cantilevered, movable structure 13 and engagement feature 11 which engage an outer surface of the container.

Spooner teaches it is known to provide a closure with either internal or external threads.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to reverse the position of the engagement structure of Deekes as taught by Spooner, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167. Doing so provides an alternative arrangement for allowing the closure to fit substantially within the container.

Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

11. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

12. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

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I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

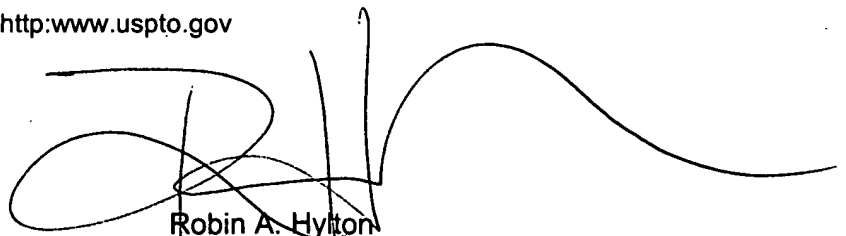
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH
September 1, 2006



Robin A. Hylton
Primary Examiner
GAU 3727

TITLE: CLOSURE ELEMENTS FOR TUBULAR MEMBERS AND
CONTAINERS INCLUDING SAME

Inventor: Michael J. Litchman

Serial No.: 10/765,721

Docket No.: 2316-6296US

Replacement Sheet
2/10

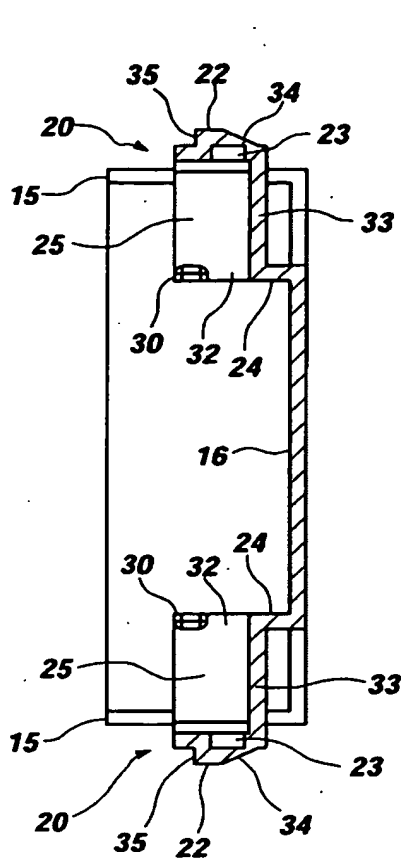


FIG. 1B

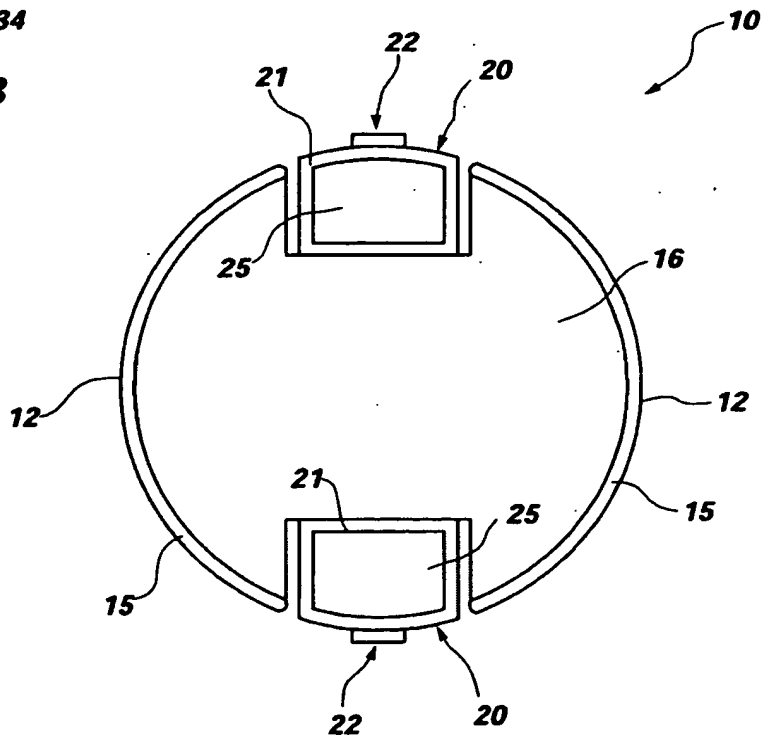


FIG. 1C

approved

TITLE: CLOSURE ELEMENTS FOR TUBULAR MEMBERS AND
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Replacement Sheet
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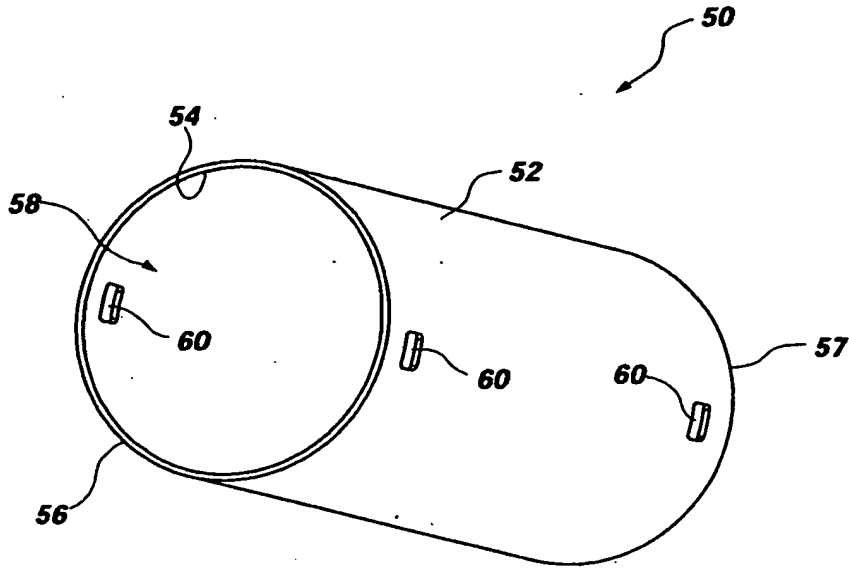


FIG. 2

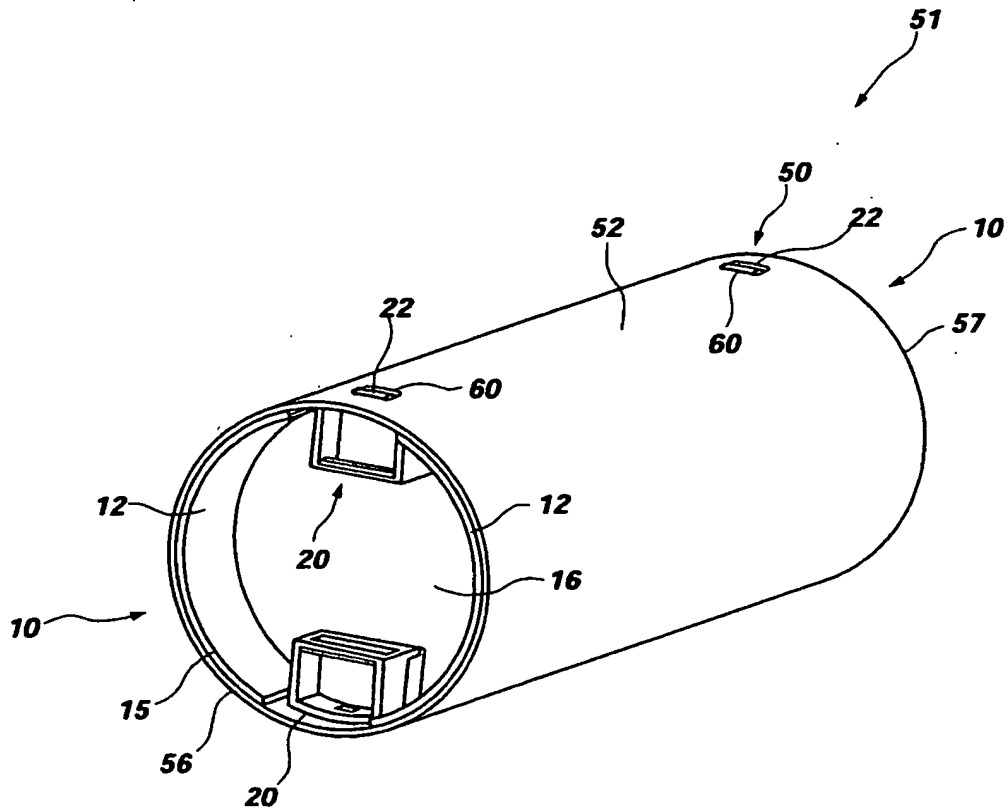


FIG. 3A

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TITLE: CLOSURE ELEMENTS FOR TUBULAR MEMBERS AND
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Inventor: Michael J. Litchman

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Docket No.: 2316-6296US

Replacement Sheet

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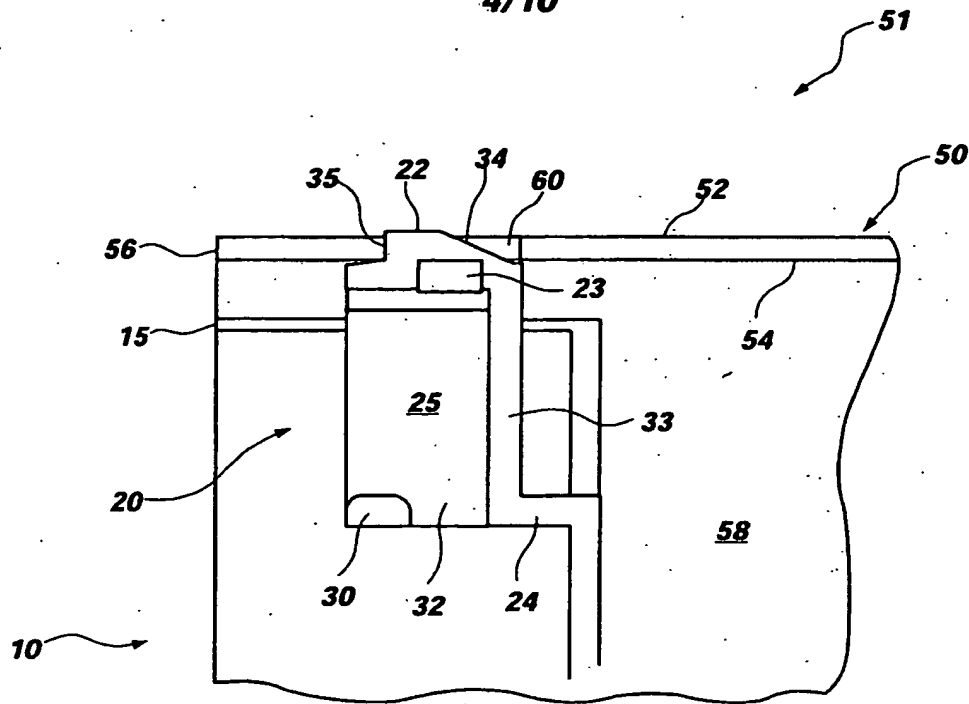


FIG. 3B

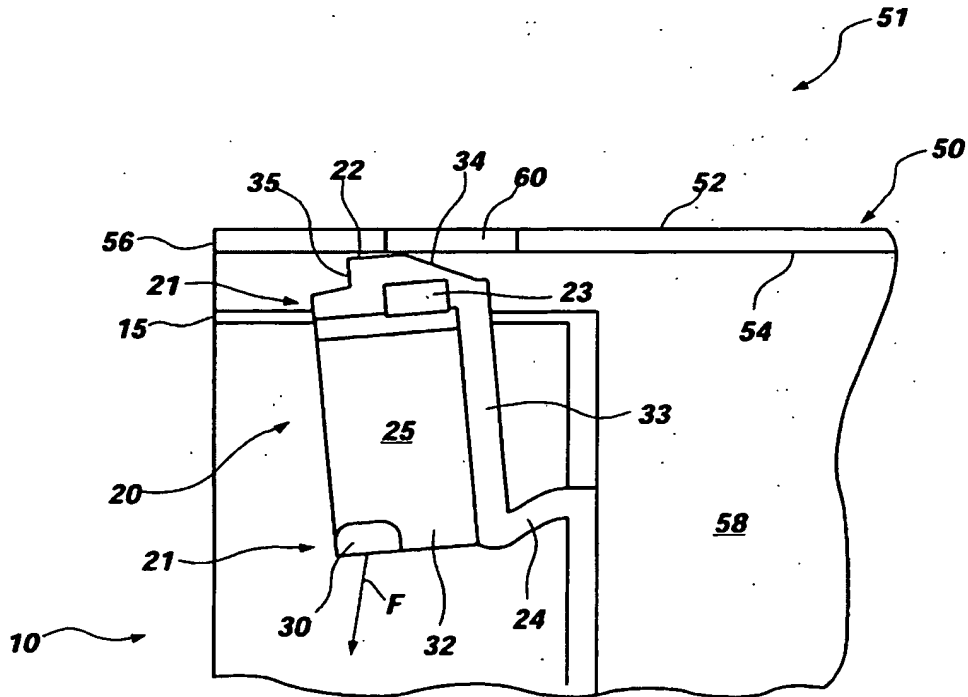


FIG. 3C

TITLE: CLOSURE ELEMENTS FOR TUBULAR MEMBERS AND
CONTAINERS INCLUDING SAME

Inventor: Michael J. Litchman

Serial No.: 10/765,721

Docket No.: 2316-6296US

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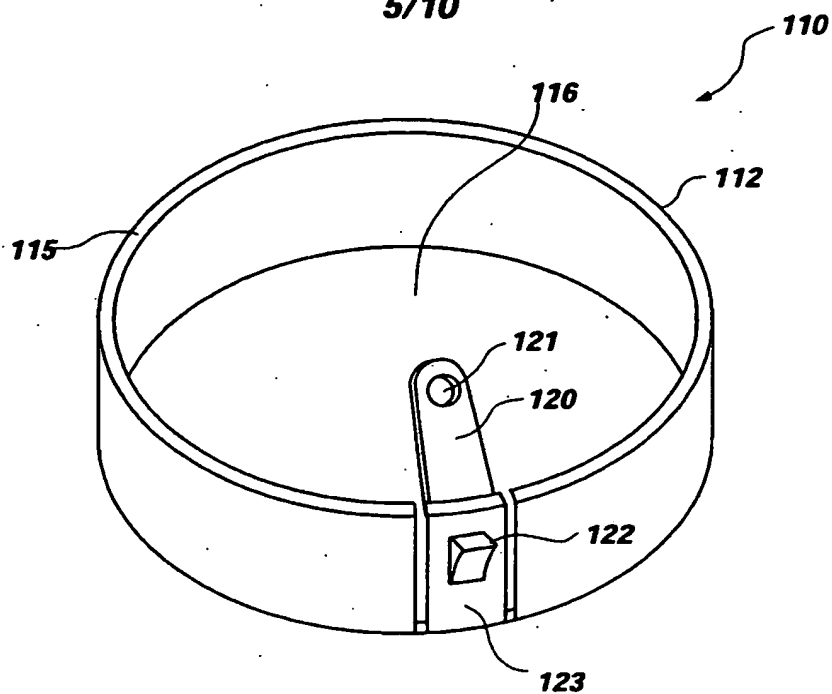


FIG. 4A

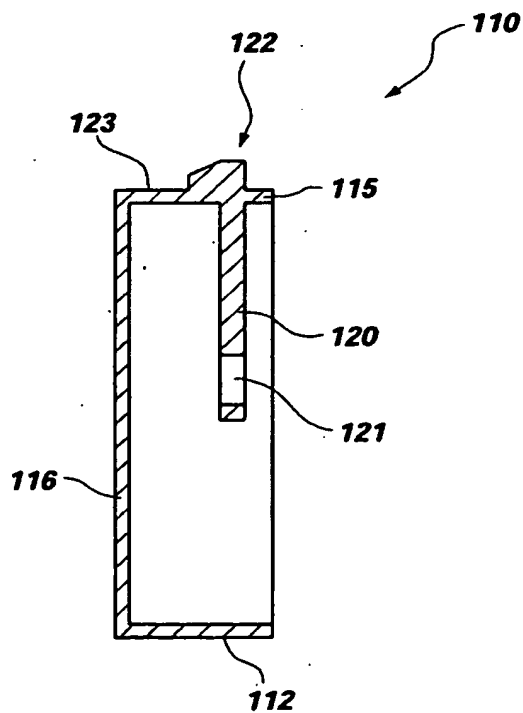


FIG. 4B

**TITLE: CLOSURE ELEMENTS FOR TUBULAR MEMBERS AND
CONTAINERS INCLUDING SAME**

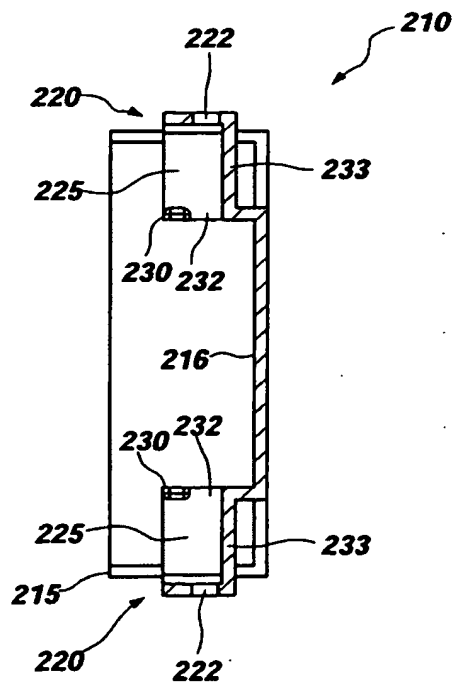
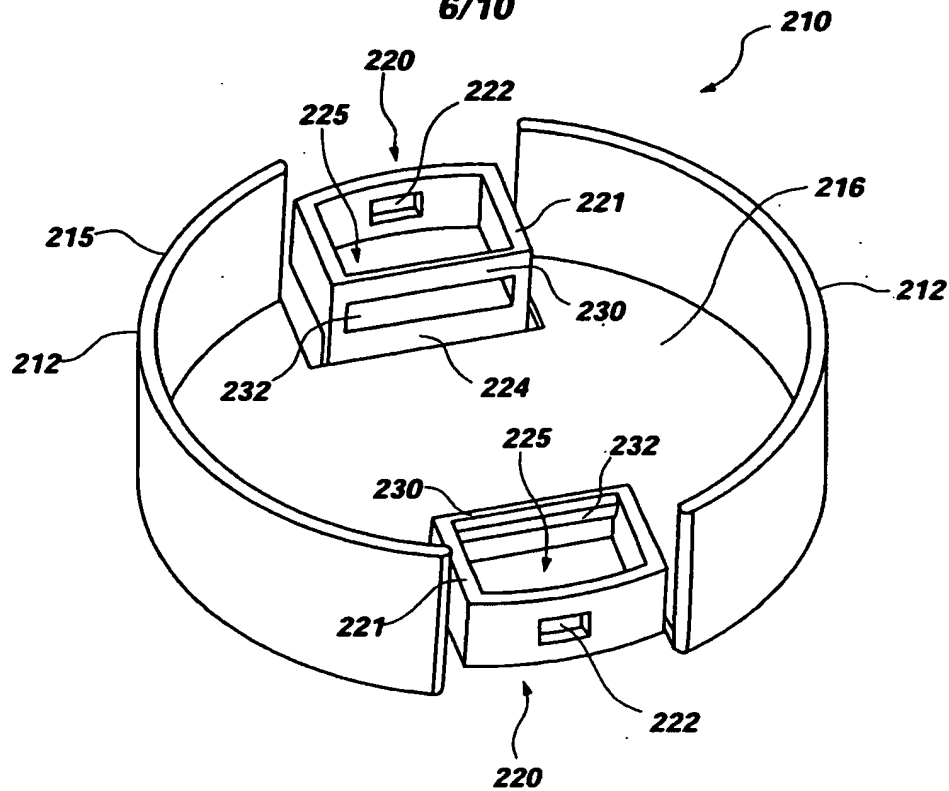
Inventor: Michael J. Litchman

Serial No.: 10/765,721

Docket No.: 2316-6296US

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TITLE: CLOSURE ELEMENTS FOR TUBULAR MEMBERS AND
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Inventor: Michael J. Litchman

Serial No.: 10/765,721

Docket No.: 2316-6296US

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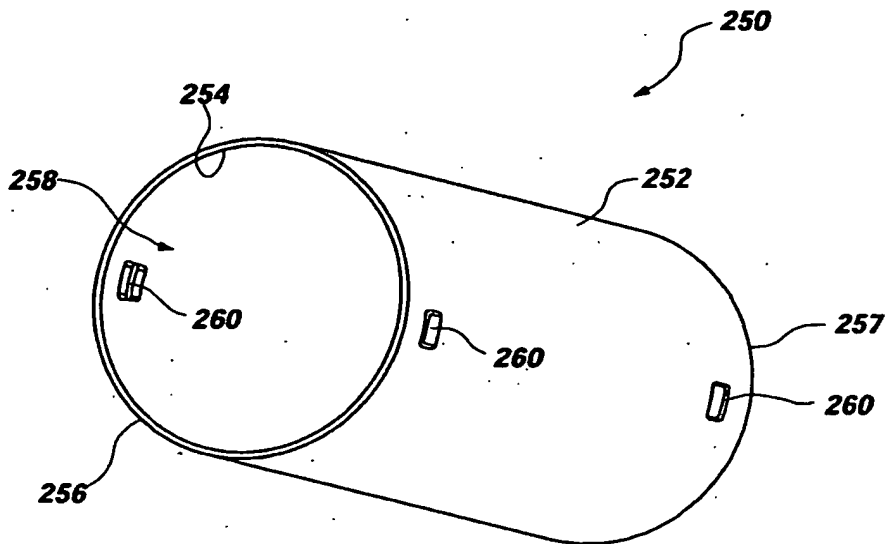


FIG. 5C

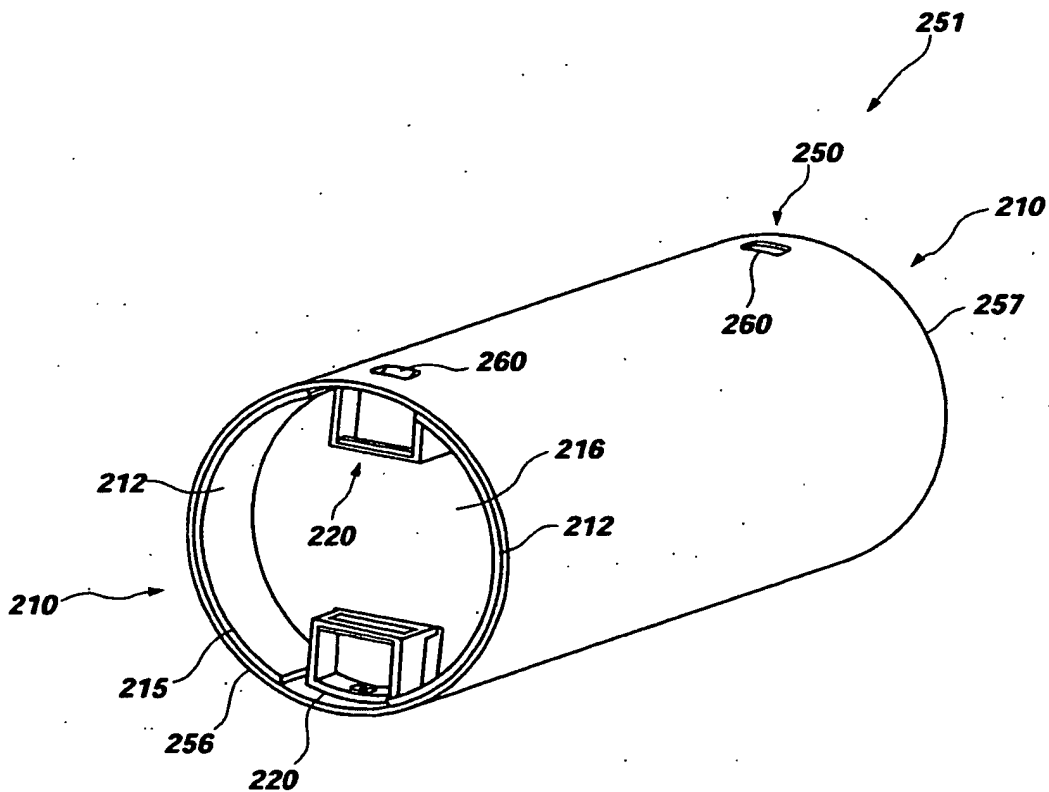


FIG. 5D

Appendix

TITLE: CLOSURE ELEMENTS FOR TUBULAR MEMBERS AND
CONTAINERS INCLUDING SAME

Inventor: Michael J. Litchman

Serial No.: 10/765,721

Docket No.: 2316-6296US

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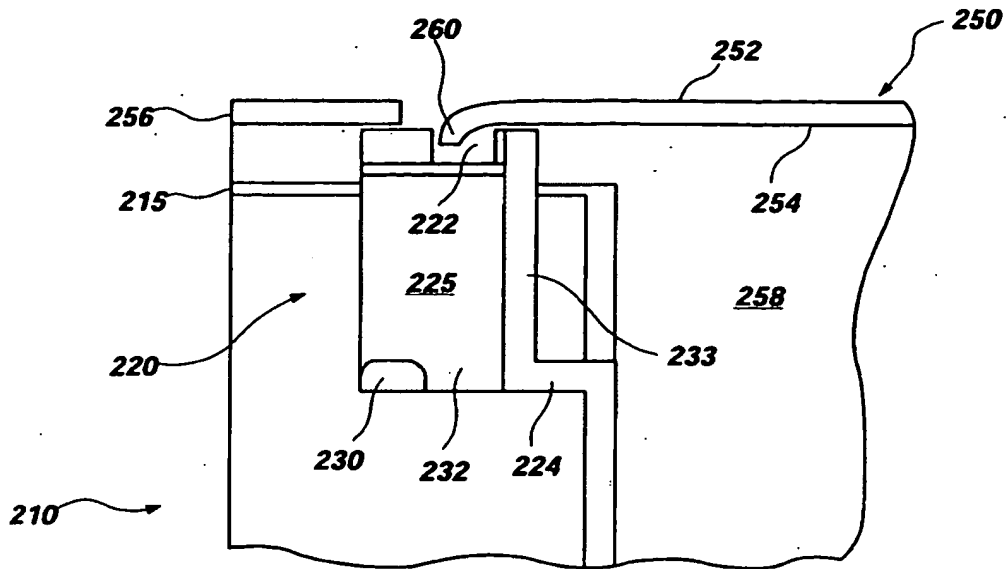


FIG. 5E

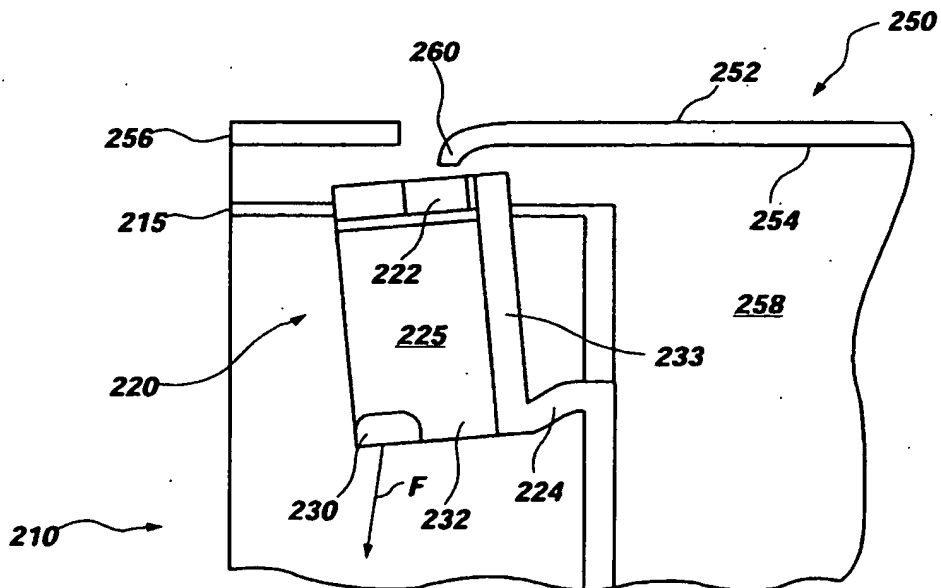


FIG. 5F

TITLE: CLOSURE ELEMENTS FOR TUBULAR MEMBERS AND
CONTAINERS INCLUDING SAME

Inventor: Michael J. Litchman

Serial No.: 10/765,721

Docket No.: 2316-6296US

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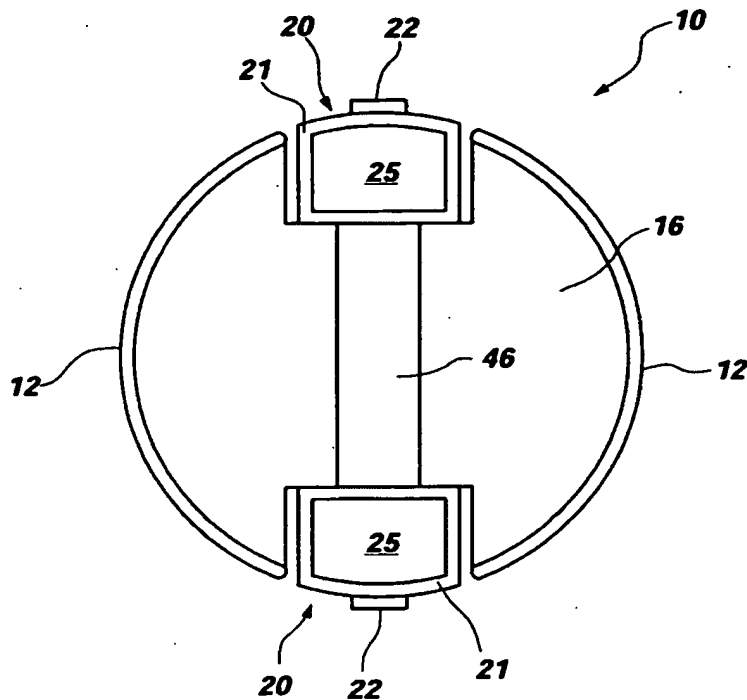


FIG. 6A

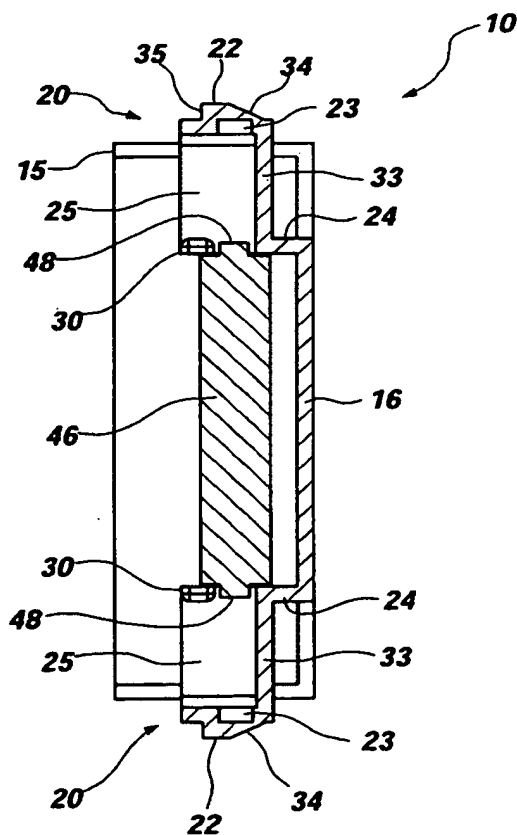


FIG. 6B

TITLE: CLOSURE ELEMENTS FOR TUBULAR MEMBERS AND
CONTAINERS INCLUDING SAME

Inventor: Michael J. Litchman

Serial No.: 10/765,721

Docket No.: 2316-6296US

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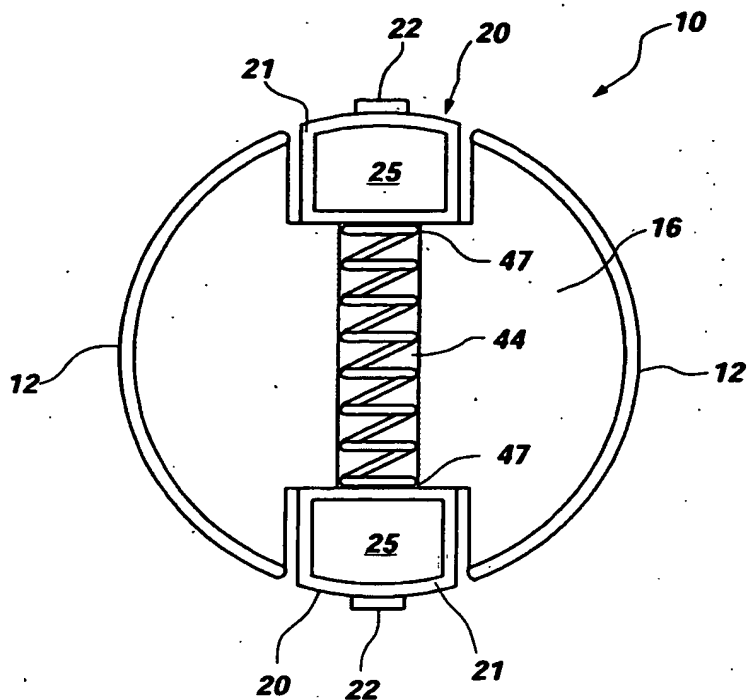


FIG. 6C

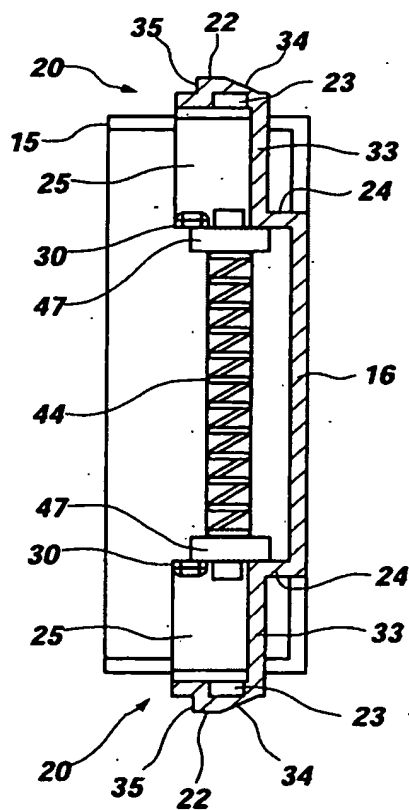


FIG. 6D